

REMARKS

Favorable action on the merits is solicited in view of the foregoing amendments and the following remarks.

I. Claim Status and Amendments

Claims 18-20 were pending in this application when last examined and stand rejected. Claims 1-17 and 21-22 were previously cancelled.

Applicants have cancelled claims 18-20 without prejudice or disclaimers thereto by way of the instant amendment. Applicants reserve the right to file a continuation or divisional on any cancelled subject matter.

Applicants have added new claims 23-25 to replace cancelled claims 18-20. The new claims better specify the orientation of the elements in the surface treated steel sheet of previous claim 20. Support can be found throughout the application, for instance, at page 3, line 19 to page 5, line 11, and in original claims 1-3 and 20.

No new matter has been added by the above amendments.

Claims 23-25 are pending upon entry of this amendment.

II. Obviousness Rejections Under 35 U.S.C. §103

Claims 18 and 19 were again rejected under 35 U.S.C. §103(a) as obvious over Hirofumi et al. (US 5,576,113) in view of

Du Rose (US 3,355,267) for the reasons set forth in item 5 on pages 2-3 of the Office Action.

Claim 20 was again rejected under 35 U.S.C. §103(a) as being obvious over Du Rose for the reasons set forth in item 6 pages 3-4 of the Office Action.

These rejections are respectively traversed for the reasons set forth in the response filed November 24, 2008, which are reiterated herein, and for the following reasons. The rejections will be discussed together below.

To start, the present amendment cancels claims 18 and 19 thereby obviating the obviousness rejection of these claims over Hirofumi and Du Rose. Applicants noted that the cancellation of these claims is not intended as acquiescence to the rejection.

Applicants respectfully submit that the remaining prior art rejection should fail, because the cited prior art reference of Du Rose alone, or even if combined with Hirofumi et al., fails to teach, suggest or make obvious all the limitations of new independent claim 23, as required to support of a case of *prima facie* obviousness. In particular, neither Du Rose, nor Hirofumi, nor any combination thereof, discloses or suggests the arrangement of the various layers in the surface treated sheet for a battery case of claim 23. For instance, neither reference discloses "a diffusion layer of a nickel-cobalt-phosphorus alloy

formed as an uppermost layer at said one of said two surfaces to be used as the inner surface of the battery case" as required in claim 23.

Instead, Du Rose (US 3,355,267) discloses that nickel-cobalt-phosphorus layer is sandwiched between nickel plates. Moreover, the uppermost layer in Du Rose is surely a chromium plate used to obtain good protection of the base surface against corrosion. Thus, contrary to the Examiner's position, the uppermost layer in Du Rose is not a nickel-cobalt-phosphorus plate (see Du Rose, column 1), but rather chromium. For this reason, it is clear that Du Rose fails to disclose or suggest each and every element of claim 23.

Further, even if Du Rose were combined with Hirofumi (US 5,576,113), Applicants respectfully submit that such a combination would not render obvious the surface treated steel sheet of claim 23. Hirofumi discloses that a sheet, to be formed into a battery can, is comprised of Ni plated layers formed on an upper and lower surface of the steel plate. It is clearly essential in Hirofumi to place the Ni plate as the uppermost layer, not a nickel-cobalt-phosphorus alloy layer as required in amended claim 18 of the instant application. See columns 25 and 26 of US 5,576,113).

Accordingly, no combination of the cited references would result in a nickel-cobalt-phosphorus layer positioned at

the uppermost layer of the inner surface for a battery case as required in the independent claim.

Therefore, neither Du rose, nor Hirofumi, nor any combination thereof, disclose or suggest each an every element of claim 23. In view of the above, independent claim 23 and all claims dependent thereon (*i.e.*, claims 24-25) are novel and patentable over the cited prior art references, either alone or when combined. Thus, the above-noted obviousness rejections are untenable and should be withdrawn. Withdrawal of the rejections is requested.

III. Conclusion

Having addressed all the outstanding issues, the amendment is believed to be fully responsive to the Office Action. It is respectfully submitted that the claims are in condition for allowance, and favorable action thereon is requested.

Appln. No. 10/511,844
Amd. dated June 2, 2009
Reply to Office Action of March 4, 2009

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By


Jay F. Williams
Registration No. 48,036

JFW:pp
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\O\Ohta\OHMURA10\Pto\2009-06-02Amendment.doc